

STATE OF MICHIGAN
COURT OF APPEALS

DOUGLAS STONEMAN,

Plaintiff-Appellee,

v

CARSON CITY HOSPITAL,

Defendant-Appellant.

UNPUBLISHED

February 6, 2007

No. 263637

Montcalm Circuit Court

LC No. 04-003097-NH

Before: Sawyer, P.J., and Neff and White, JJ.

PER CURIAM.

Defendant appeals by leave granted from an order of the circuit court denying its motion for summary disposition. At issue is whether an affidavit of merit required for a medical malpractice lawsuit against a hospital's nursing staff is adequate when it is signed by a nurse who is not necessarily qualified to give an opinion as to causation at trial. We affirm.

This case is controlled by *Sturgis Bank & Trust Co v Hillsdale Community Health Ctr*, 268 Mich App 484, 491; 708 NW2d 453 (2005)¹. Pursuant to *Sturgis*, MCL 600.2169, as applied to MCL 600.2912d, applies to nurses. *Sturgis* also makes clear that an affidavit of merit signed by a nurse is valid even if the nurse is not qualified as an expert for causation because "the issue whether plaintiff's affiant[] can substantively attest or address matters of causation is not a concern for the purposes of the 'first stage' of the litigation in which an affidavit of merit must be filed under § 2912d(1); rather the issue can be pursued in later proceedings such as at trial." *Sturgis, supra* at 494-495. Thus, a plaintiff is "only required to submit an affidavit of an expert practicing or teaching in the same health care profession as those accused of wrongdoing and that the affidavit contain the necessary elements listed in § 2912d(1)(a) through (d)." *Id.* at 495-496. In this case, as in *Sturgis*, the alleged malpractice related to nursing care, so an affidavit of merit signed by a nurse would qualify as one signed by an expert practicing in the same health care profession as those accused of wrongdoing. Therefore, despite her lack of

¹ Following the filing of an application for leave to appeal, the Supreme Court directed its clerk "to schedule oral argument on whether to grant the application or take other peremptory action," by order dated September 29, 2006. See 477 Mich 874; 721 NW2d 593 (2006).

medical qualifications to testify as to causation, the affiant here was qualified to sign the affidavit of merit.

Defendant contends the affidavit of merit is also defective because the section regarding causation is purely conclusory and does not appropriately explain how the alleged breach of the duty of care led to plaintiff's alleged injuries. We disagree.

MCL 600.2912b(4)(e) requires that the affidavit of merit address "[t]he manner in which it is alleged the breach of the standard of practice or care was the proximate cause of the injury claimed in the notice." Plaintiff alleges in his affidavit of merit that defendant failed to take the appropriate nursing care steps whose sole purpose is to prevent pressure ulcers (commonly known as "bed sores") from forming and that defendant failed to take appropriate nursing care steps to monitor plaintiff's nutrition and hydration needs and, as a result, he developed pressure ulcers, was malnourished, and dehydrated. This is sufficient under the clear statutory language. Therefore, plaintiff's affidavit of merit is not deficient in the area of causation.

Thus, the circuit court did not err in denying defendant's motion for summary disposition.

Affirmed.

/s/ David H. Sawyer

/s/ Janet T. Neff

/s/ Helene N. White